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9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE DISTRICT OF ARIZONA

12 United States of America,  
13 Plaintiff,  
14 vs.  
15 Brien Jesus Hernandez,  
16 Defendant.

23-CR-00320-TUC-JAS

17 SENTENCING MEMORANDUM

18 The United States of America, by and through its undersigned attorneys, hereby  
19 submits the following sentencing memorandum.

20 On August 22, 2023, the defendant pled guilty to Count 1 in the indictment charging  
21 the defendant with dealing firearms without a license. The government has reviewed the  
22 Presentence Report (PSR) and has no objection to the total offense level calculation of 21  
23 and the defendant's placement in Criminal History Category I. The resulting sentencing  
24 range is 37 to 46 months.

25 In aggravation, the defendant's offense involved numerous firearms including fully  
26 automatic weapons. (PSR ¶¶ 6-7.) He was also selling "auto sears" which allow semi-  
27 automatic firearms to function as fully automatic weapons. (PSR ¶ 10-11.) He was also  
28 involved in selling small amounts of controlled substances. (PSR ¶ 9.)

29 In mitigation, the defendant is 25-years-old and has no prior criminal history. (PSR  
30 ¶¶ 29-35.) After some initial difficulties, he has performed well on pretrial release. (PSR  
31 ¶ 4.) Having reviewed the findings and recommendations contained in the PSR, the

1 government requests a sentence of 37 months followed by three years of supervised release.  
2 This sentence would constitute sufficient deterrence and be consistent with the application  
3 of the other sentencing factors set forth in 18 U.S.C. Section 3553(a).

4 Respectfully submitted this 18th day of January, 2024.

5 GARY M. RESTAINO

6 United States Attorney  
7 District of Arizona

8 */s Craig H. Russell*

9 Craig H. Russell  
10 Assistant U.S. Attorney

11 Copy of the foregoing served electronically or by  
12 other means this 18th day of January, 2024, to:

13 ALL ECF Participants

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